

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

SUITS - High court of AP- Orders of High Court of AP in W.P. No. No.25342/1999 dated:22.02.2001 - Land title Dispute in question - Admeasuring Acres-72.61 gts in old Sy.Nos.49, 50/1, 50/2, 21/2 and 103 and corresponding new Sy.Nos.132, 133, 140, 141 and 142 of Chengicherla Village, Ghatkesar Mandal, Ranga Reddy District - Revision petition filed - Orders of Commissioner, Survey Settlements and Land Records, Hyderabad - set-aside - Revision petition- disposed off-orders - issued.

REVENUE (J.A) DEPARTMENT

G.O. Ms. No: 1444

Dated: 19.07.2011

Read the following:-

1. Orders of HC of AP in wp.no.25342/99 dt:22-2-2001.
2. Govt. Memo.No.22475/JA (1)/06-1, dt.27.5.06.
3. Govt. DO.Lr.No.22475/JA (1)/06-2, dt.23.06.06.
4. From the District Collector R.R District, Lr. No. D1/ 3517/ 06, dt.29.07.06.
5. written arguments filed by the revision petitioners sri.Ranga venkatesh and others.
6. Written arguments filed by respondent Sri.Mirza Mukaram Ali Baig.
7. Impleading petition filed by the petitioner Sri.Nagarjuna choudary and others.
8. Impleading petition filed by Shahjana Begum and others.
9. Written arguments filed by petitioners Nagarjuna choudary and others.
10. Orders of Hon'ble High court in W.P.No.10610/2010, Dated:31.8.2010.

Whereas the Hon'ble High Court in its order in W.P.No.25342/1999 dated:22.02.2001, while Setting aside the orders of the Government issued in Memo. No. 19518/SS.I/99-12, Dt.17.09.1999 (Setting aside the orders of Commissioner, SS & LR directing the Collector, Ranga Reddy District to implement Supplementary Sethwar), has directed that the first respondent i.e., Secretary, Revenue Department to give an adequate opportunity of being heard to both parties, who claim title over disputed land admeasuring Acres-72.61 guntas in old Sy.Nos.49, 50/1, 50/2, 21/2 and 103 and corresponding new Sy.Nos.132, 133, 140, 141 and 142 of Chengicherla Village, Ghatkesar Mandal, Ranga Reddy District and to decide revision petition in accordance with Law.

Whereas as per order of the Hon'ble High Court in W.P. No.25342/1999 dated 22.02.2001, opportunity was given to all concerned several times and the matter was heard finally on 27.05.2011. The petitioners, respondent and impleading petitioners Nagarjuna Chowdary and others have submitted their written arguments and District Collector, Ranga Reddy filed reply and heard arguments of both sides.

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Whereas before going into the merits of the case, for better understanding of the case, the facts of the case are as follows:

One Sri Mirja Mukaram Ali Baig filed a representation before the Commissioner, Survey Settlements & Land Records for implementation of Muntakab. No. 74, dt. 11.2.1957 issued under 'The AP (TA) Atiyat Enquiries Act 1952' in respect of the lands admeasuring Acres. Ac. 72.61 gts in old Sy. Nos.49, 50/1, 50/2, 21/2 and 103 and corresponding new Sy.Nos. 132, 133, 140, 141 and 142 of Chengicherla village, Ghatkesar Mandal, Ranga Reddy District.

They claimed that they are the legal heirs of one late Mirza Bharam Ali Baig and that the right, title and possession of the said lands is confirmed in favour of their father by Nazime Atiyat vide Muntakab No. 74, dated 11.2.1957. During lifetime of the petitioner's father, a part of Kancha land was leased out to one Ranga Muthaiah and others on payment of agreed lease amount. They alleged that the MRO, Ghatkesar Mandal made wrongful corrections in the revenue records relating to the said lands. Such wrongful entries were made without following the prescribed procedure and without any notice to them. Those wrongful entries were made with a malafide intention to deprive the legal rights in respect of the said lands. As such, they have filed petition dt. 28.9.1995 before the C, SS&LR requesting to issue orders for implementation of supplementary Sethwar of Chengicherla village, Ghatkesar Mandal in the name of his father as the same is not implemented in the revenue records. The Commissioner, SS&LR in his proceedings Dt.8.7.1997 directed the Collector, Rangareddy District to implement the supplementary Sethwar, which was issued long back by the competent authority. Thereafter, Mirza Mukram Ali Baig filed another application dt. 25.10.1997 stating that by oversight he has requested the Commissioner, SS&LR to direct the Collector, to implement the supplementary Sethwar instead of Assl Sethwar (original sethwar).

Accordingly, the Commissioner, SS&LR directed the Collector, Ranga Reddy District to implement the original Sethwar. The District Collector accordingly issued consequential directions directing all the concerned to implement the original Sethwar in terms of the directions of Commissioner, Survey Settlements and Land Records.

Aggrieved by the above orders, one Sri Ranga Venkatesh and 3 others have filed a petition before the Commissioner, SS & LR, claiming as pattadars, owners and possessors right from 1349 Fasli till date and that their names were also mutated subsequently, but they were not at all heard. The Commissioner, SS & LR, Hyderabad has dismissed the same without observing the merits and demerits of the case on 31.12.1998.

Basing on the orders of Commissioner, SS & LR, Hyderabad dated: 08.07.1997 and further orders of Collector thereon, the MRO has issued instructions to the UDRI, Ghatkesar to bring the names of Pattadars (Mirja Bahram Ali Baig) mentioned in the sethwar into the ensuing Revenue records i.e., 1997-98.

Against the above orders, Sri Ranga Venkatesh and others have filed a revision petition before the Government. After examining the issue, the orders of Commissioner, SS & LR, Hyderabad were set-aside by the Government on 17.09.1999.

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Aggrieved by the above orders, Sri Mirja Mukaram Ali Baig (S/o. Mirja Bahram Ali Baig) has preferred W.P. No.25342/99.

The Hon'ble High Court in its order dated:22.02.2001, while Setting aside the orders of the Government issued in Memo. No. 19518/SS.I/99-12, Dt.17.09.1999 (Setting aside the orders of C, SS & LR directing the Collector R.R. to implement Supplementary Sethwar) has observed that the first respondent i.e., Secretary, Revenue Department to give an adequate opportunity of being heard to both parties and decide revision in accordance with Law.

As per the orders of High Court, Sri Mirja Mukaram Ali Baig filed Representation before Government to pass appropriate orders in the matter.

Sri Ranga Venkatesh and others filed W.A.M.P.No. 1859 of 2001 dated:14.06.2001 praying to stay the operation of High Court orders dated: 22.02.2001, in W.P.No.25342/99.

Further, Sri Ranga Venkatesh and others filed another W.A.No.907/2001 against the orders in W.P.No.25342/99, but the same was dismissed duly remitting the issue to the Revisional Authority for disposal afresh in accordance with law.

Accordingly, Sri Ranga Venkatesh and others filed representations before the Revisional Authority.

As the matter stood thus, Sri Mirja Mukaram Ali Baig has filed a Writ Petition No.16692/2002 seeking direction to the Government to settle their claim expeditiously. The High Court in its order dated: 03.09.2002 has disposed off the W.P. with a direction to Government to dispose off the Revision pending before them within (6) months from the receipt of the order.

Before receiving the final judgment from the High Court in W.P.No.25342/99 dated: 22.02.2001 setting aside Govt. Memo. dt. 17-9-99 and staying the operation of Commissioner, Survey Settlements and Land Records, Hyderabad orders dated: 30.11.1997, the Mandal Revenue Officer, Ghatkesar has carried out corrections in Pahani for the year 1996-97, since the Commissioner, Survey Settlements & Land Records orders are in force and recommended to cancel the Pattadar Passbooks and title deeds which were in favour of Sri P.Rajaram, R.Venkatesh and others of Chengicherla. Accordingly, the RDO, Ranga Reddy (East) has suspended the pattadar passbooks etc., vide his proceedings dt.17.04.2001.

While the matter was under adjudication, Sri Mirza Mukaram Ali Baig has filed another W.P.No.10610/2010 before the High Court of Andhra Pradesh. After filing counter by the Government the Hon'ble High Court has been pleased to dispose off the said W.P. with a direction to dispose off the Revision pending before Government.

In the above facts and circumstances, the case was taken up as per the orders of the High court and an opportunity was given to the petitioners, respondents and the District Collector, Ranga Reddy.

While the matter was pending consideration, some of the interested persons filed impleading petitions before this authority requesting for impleading them stating some of them are the owners of part of the disputed land and some of them have 50% share in the total land in question.

Accordingly, notices were given to all interested parties and personal hearing was also given to them. The revision Petitioners, respondents and impleading petitioners Sri Nagarjuna Chowdary and others have filed their written arguments and the District Collector, Ranga Reddy filed reply. All the parties have also advanced arguments.

In this matter, the following persons are claiming title over land in question.

- 1) Sri Ranga Venkatesh and 3 others are claiming title and possession over total AC.72.61 guntas.
- 2) Mirza Mukaram Ali Baig is claiming total acrs.72.61 guntas of disputed land.
- 3) Sri Nagarjuna Choudary and others are claiming land in sy.no.133/2 and 142/2 admeasuring Acrs.3.2 gts and 2.38 gts respectively.
- 4) Smt. Shahjehan Begum and 4 others (share holders of subject property along with Mirza Mukaram Ali Baig), are claiming 50% share in total acrs.76.36.gts.

1) Claim of Sri Ranga Venkatesh and 3 others:

They contend that the final orders on the Munthaqab were passed on 11-02-1957. Then how can Sethwar of 1956 be issued? By that time, there was no order on the Munthaqab. Therefore, on the face of it, the Sethwar is a forged document. Further, when the lands are Arzi Maktha Lands, which are defined under Sec.2 (C)(i) of the A.P. (T.A) Abolition of Inams Act, such Inams stood abolished by virtue of Sec.3 of the said Act, which came into force on 20th July, 1955. Now, therefore, the question is when all the Inams are abolished and vested in the State as on 20th July, 1955, how can Munthaqab Orders Dated:11.02.1957 be passed relating to the Inams Harazi Maktha? As such it is totally without jurisdiction. So also when all the Inams Harazi Maktha lands are abolished with effect from 20th July, 1955, how can a Sethwar 1956 be prepared after the inams are abolished and the lands vested in the Government under Sec.3? Therefore, on the face of it, the two documents, viz. Munthaqab and Sethwar, cannot be relied upon under any circumstances. They are prima-facie false documents or documents without legal right or jurisdiction and, therefore non-est in the eye of law. Thus, the case of the respondent Sri Mirza Mukaram Ali Baig is empty, false and concocted one. According to the documents, the so-called Munthaqab, itself states that the lands in question are Arazi Maktha lands totally covered by A.P.(T.A) Abolition of Inams Act and the so-called Munthaqab and the order passed under Munthaqab are subsequent to the promulgation of the A.P. (T.A) Abolition of Inams Act, which came into force on 20th July, 1955; whereas the Nazim Jama Bandi said to have passed order on 5.7.1956 subsequent to coming into force of the Act and under Sec. 3 all such inam lands vested in the Government. Therefore, it is impossible for any officer or authority or Government to pass any order as to creating ownership rights in favour of Sri Mirza Mukaram Ali Baig's father and as such it is totally in violation of Sec.3 of the A.P (T.A) Abolition of Inams Act. Initially, the date of vesting for inams is the same date of the Act, i.e. 20th July 1955. Until and unless the re-grant is made under the Act under Sections 4 to 8 of the Act, no title can pass on to any body or any body can claim any right. It is being so, Sri Mirza Mukaram Ali Baig out of his anxiety got tampered the Vasul Baki record of 1951 forging

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some false entry as to the orders passed by the Collector, inserting the names of Inamdars. If that is to be believed, where is the necessity for Inams Nazim Athiath to pass orders as on 5-7-1956? According to the so-called orders said to have been passed by the Collector, the further proceedings should not have been taken up and the entries should have been continued in Kasra Pahani and subsequent pahanies up to date. The said entry in 1951 being false and fabricated entry and a vague attempt has been made to convert the land into patta land, which could not be done before the commencement of the Act. After commencement of the A.P (T.A) Abolition of Inams Act, any order or any proceedings taken up or any supplementary Sethwar issued, shall be illegal and null and void. Therefore, they prayed to accept their claim and pass orders accordingly.

2) Claim of Mirza Mukaram Ali Baig:

Mirza Mukhram Ali Baig claims that he is owner and possessor of land bearing Sy.Nos. 49, 50/1, 50/2, 21/2 and 103(old) corresponding to new Sy.Nos. 132, 133, 140, 141 and 142 and 103 admeasuring Ac.72.61 gts situated at Chennamguda, Almasguda and Chengicherla villages of Ghatkesr Mandal, Rangareddy District. According to him he is the legal heir of one late Mirza Bahram Ali Baig and that the right, title and possession of the said lands is confirmed in favour of his father Beharam Ali Baig by Nazime Atiyat vide Muntakab No. 74, dated 11.2.1957. During lifetime of the petitioner's father, a part of Kancha land was leased out to one Ranga Muthaiah and others on payment of agreed lease amount. They alleged that the MRO, Ghatkesar Mandal made wrongful corrections in the revenue records relating to the said lands. Such wrongful entries were made without following the prescribed procedure and without any notice to them. Those wrongful entries were made with a mala fide intention to deprive the legal rights in respect of the said lands. As such, they have filed petition dt. 28.9.1995 before the Commissioner, SS&LR requesting to issue orders for implementation of supplementary Sethwar of Chengicherla village, Ghatkesar Mandal in the name of his father as the same is not implemented in the revenue records. The Commissioner, SS&LR in his proceedings Dt.8.7.1997 directed the Collector, RR Dist., to implement the supplementary Sethwar, which was issued long back by the competent authority. Thereafter, Mirza Mukram Ali Baig filed another application Dt. 25.10.97 stating that by oversight he has requested the Commissioner, Survey Settlements & Land Records to direct the Collector, to implement the supplementary Sethwar instead of Assl Sethwar (original sethwar). Accordingly, the Commissioner, SS&LR directed the Collector, RR Dist., to implement the original Sethwar. The District Collector accordingly issued consequential directions directing all the concerned to implement the original Sethwar in terms of the directions of Commissioner, SS&LR. It is, therefore, contended that the revision petition filed by Sri Ranga Venkatesh and others before Govt. is not maintainable in law. The A.P. High Court in its orders dated 22.2.2001 in W.P.No. 25342/99 (filed by Mirza Mukaram Ali Baig) while setting aside the impugned Memo. Dated 17.9.1999 has directed the Govt., to provide adequate opportunity of being heard to both the parties and decide the revision in accordance with law. It is also stated that the observations, if any, made in the order shall have no bearing on the right, title and interest of any of the parties with regard to the lands in question and that the observations shall have no bearing whatsoever upon the legality, propriety and regularity of the orders dated 8.7.97, 3.11.97 and 31.12.98 on the file of the Commissioner as the same were required to be decided by the first respondent i.e., Government in exercise of the revisional jurisdiction. He therefore, requested to pass orders in the matter.

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3) Claim of Sri M. Nagarjuna Chowdary and others (impleading petitioners):

The impleading Petitioners on record / Respondents i.e Sri M. Nagarjuna Chowdary and others state that they are the absolute owners of lands bearing Sy.Nos.133/2 admeasuring 3 acres 2 guntas and in Sy.No.142/2 part to an extent of 2 acres 38 guntas, totalling, 6 acres of land, situated at Chengicherla village of Ghatkesar Mandal, Ranga Reddy District, by way of purchase, under various Registered Sale Deeds dated 9th June, 1995, from one Sri Shaik Hussain, who was pattadar and owner of the said lands having purchased the same from Sri Pulusula Pentaiah and Sri. Pasula Mallaiah, original pattadars. Before purchase, they verified the title deeds of their vendor and their vendor's vendor and also the relevant revenue records of the village prepared and maintained under the statute provisions of the Record of Rights Regulation 1385 Fasli, particularly Khasra Pahani of 1954-55 and subsequently Pahani Patriks of the village, which were prepared and maintained as per note under Rule 3 of A.P. (T.A) Record of Right Rules of 1956 and in all the pahani patriks the names of their vendor's vendor were recorded as pattedars and owners of the land covered by Sy.No.133 & 142 of Changicherla (V). Their Vendor's name was also recorded as pattadar and occupant in respect of the above Sy.Nos. of the village. After purchase, they applied in the prescribed form to the then Mandal Revenue Officer, Ghatkesar for issue of Pattadar Pass Books and Title Deeds. The then Mandal Revenue Officer, after conducting an enquiry as contemplated under the provisions of Act, read with rules issued there under issued Pattadar Pass Books and Title Deeds in their favour. Ever since the date of purchase, they are in peaceful possession and enjoyment in their own right by cultivating the lands as absolute owners even till this date. They therefore, requested to implead them in this case and pass orders in the matter.

4) Claim of Smt. Shahjehan Begum and others (impleading petitioners):

They state that their father late Mirza Munawar Ali Baig and late Mirza Behran Ali Baig, who is the father of Respondent i.e. Mirza Mukaram Ali Baig herein, are the absolute owners and possessors of the land admeasuring Ac.76-31 guntas in Sy.Nos.103, 132, 133, 140, 141 & 142, of Chengicherla Village, Ghatkesar Mandal, R.R. District. This property was originally belongs to late Mohammad Ali, who is the grandfather of petitioners, and also a Muntakhab was also issued in favour of the father of the petitioners by orders dated:11.02.1957 by the Director Atiyat. Subsequently, the names of father of the petitioners and father of Mirza Mukaram Ali Baig was also recorded in the revenue records as Pattadars and possessors of the said property. Thus, the family members of the petitioners and Mirza Mukaram Ali Baig have been in possession and enjoyment of the said property and they state that they have 50% shares in the said property along with Mirza Mukaram Ali Baig and his family members. Sri Mirza Mukaram Ali Baig is also having 3 brothers and one sister. Mirza Mukaram Ali Baig has intentionally not impleaded his own brothers and sister in the above said proceedings and initiated the proceedings before the Commissioner, SS & LR, Hyderabad illegally. Therefore they requested to implead them in this case and pass orders in the matter.

STAND OF REVENUE DEPARTMENT:-

Whereas the District Collector, Ranga Reddy through his office letter dt.10-1-2007, reported that the lands under subject matter are patta lands, no Government interest is involved therein. Further, the lands in Sy. No. 132, 133, 140 & 142 of Chengicherla Village of Ghatkesar Mandal are not Inam lands and there are no Inam files connected with these survey numbers.

Whereas, the Tahasildar in his letter dt.15.3.2003 stated that the records pertaining to the year 1950 to 1953 were not received from the Erstwhile Taluk, Hayathnagar and the records for the year from 1953-54 onwards only have been received to Tahasildar office and that also the following records have been burnt in the fire accident that took place on 18-11-1997.

1. Khasra Pahani 1954-55
2. Chesala Pahani 1955-58
3. Pahani 1959-60
4. Faisal Patties (Form 5,6,7) 1956-57, 1961-62, 1964-65, 1967-68 & 1983-84.

Whereas the CCLA, Hyderabad in his report stated that the case is filed for declaration of title in respect of lands measuring to an extent of Ac. 73.21 gts of Chengicherla (V), Ghatakesar (M), Ranga Reddy (D) and the subject matter in dispute does not fall within the ambit of Revenue Courts as the declaration of title is within the purview of Civil Courts only.

Having regard to the contentions raised by the parties as referred above, the points that arise for consideration are:-

- 1) Whether the petition filed by Sri Nagarjuna Chowdary and others to implead them as parties to this Revision has to be allowed?
- 2) Whether the petition filed by Shahjahan Begum and others to implead them as parties deserves to be allowed?
- 3) Whether orders in R.C. P5/1233/97 dated.8.7.1997 and 30.11.97 passed by Commissioner, SS&LR , Hyderabad are sustainable?
- 4) Whether the Revision petition has merits and deserves to be allowed?

Points no.1 and 2:

Sri M.Nagarjuna Chowdary and others contend that they are absolute owners and possessors of land in sy.no.s.133/2 and 142/2 admeasuring Ac.3.2 gunts and Ac.2.38 gunts respectively having purchased under various registered sale deeds dt.9-6-1995 from one Shaik Hussian, who was pattedar and owner of said lands having purchased from P.Pentaiah and P.Mallaih, original pattedars. They also allege that their names have been mutated in revenue records and they have been issued pattedar pass books and title deeds.

Similarly, Shahjan Begum and others plead that their father M.Munwar Ali Baig and late Mirza Beharam Ali Baig, who is the father of Respondent i.e., Mirza Mukaram Ali Baig, are absolute owners and possessors of entire land in dispute i.e Ac.76.31 gts of Chengicherla village. They also allege that the said property originally belongs to late Mohammed Ali, who is their grandfather, and that Muntakhab was issued in favour of their father by orders dated:11-02-1957. Subsequently, the names of their father and father of respondent were mutated in revenue record as pattadars and possessors of said property. Thus, they have 50% share in said property along with Mirza Mukaram Ali Baig and his three brothers and one sister.

On a careful consideration of said contentions of impleading petitioners, it has to be said that their contention that they have right and interest in subject matter as contended by them cannot be rejected. On the other hand, the reasons advanced by them go to show that prima-facie they have right and interest in part of disputed property. As such, it is just and proper to allow their petitions to implead them as parties to this revision petition. The points are accordingly answered in favour of impleading petitioners.

Point No.3

All the parties during the course of arguments advanced same contentions as raised by them, a reference to which has been made supra.

From the stands taken by the parties, it is crystal clear that there is title dispute among the parties over disputed land. The order under revision was passed without notice to revision petitioners Ranga Venkatesh and others. Further, the impleading petitioners viz., Narajuna Chowdary and others and Shahjahan Begum and others were not parties before the Commissioner, SS & LR when the impugned order was passed. In such circumstances, it cannot be said that the order in question is sustainable. Any order passed has to be passed after notice to all parties and following due procedure prescribed under relevant laws and rules.

Now, the next question is whether the order passed by the Commissioner, SS & LR has to be set aside and revision has to be allowed. While considering a revision, this authority cannot go into the facts in issue and decide the controversy by giving finding thereon and this authority has to consider only the legality of orders challenged in the revision.

As per report of the CCLA, the controversy between parties does not fall within the ambit of Revenue Courts, as there is dispute regarding title over the land in question, and that only civil court is competent to decide the title dispute between parties. It is true that the contentions raised by the parties go to show that there is title dispute regarding disputed land between them. It is settled law as laid down in K.S.B.Ali Vs. The State of A.P. represented by its Chief Secretary, Hyderabad and others (W.P.No.14439/2006, dated:14-07-2006) that the parties in a dispute like present one should approach civil court and seek remedies of declaration of title and injunction, as they are advised. In view of this and in view of the fact that the order challenged in revision was passed without notice to the revision petitioners and impleaded parties were not before the Commissioner, SS&LR, the Government is of the opinion that the revision has to be disposed off setting aside the orders of Commissioner, SS & LR dated:08-07-1997 and 30-11-1997 with observation that the parties shall approach competent civil court for the remedies available to them under law, as they are advised. The point is answered accordingly.

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Point No.4.

In view of findings on point Nos. 1 to 3, the revision has to be disposed off, subject to observations made in point No.3. This point is answered accordingly.

In the result, the Government, after careful examination of the matter in depth and for the foregoing reasons, disposes of the revision subject to observations made above giving liberty to all the parties to this revision to agitate their pleas and claim relief over disputed land before competent civil court, as they are advised.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ANIL CHANDRA PUNETHA
PRINCIPAL SECRETARY TO GOVERNMENT

To:

1. Sri R.Venkatesh and others thorough their counsel Sri. K.Govinda reddy, Advocate 2-4-490/a2,prembagh Apartment ,Barkatpura ,Hyderabad. (by Reg.Post)
2. SriMirza Mukharam Ali Baig and others 10-3-15/2/1, Humayun Nagar, Hyderabad. (by Reg.Post.)
3. Sri Nagarjuna chowdary C/o Almond House, Lingapur Building, HimayatNagar, Hyderabad-29(by Reg.Post).
4. Mrs.Shahjahan Begum and others#8-2-317/M/14,Road No.4, Banjara Hills, Hyderabad. (by Reg.Post)
5. The District Collector, Ranga Reddy District.
6. The Chief Commissioner of Land Administration, A.P. Hyderabad.
SF /SC

// FORWARDED :: BY ORDER //

SECTION OFFICER